DOCUMENT RESUME

ED 176 896 PS 010 929

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TITLE Parental Authority and the Democratic Ethic.
PUB DATE 8 Oct 76
NOTE 42p.

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Authoritarianism; *Child Rearing; Democracy; *Democratic Values; Ethical Instruction; *Ethics; Moral Issues; *Parent Child Relationship; *Parent Responsibility; Parent Role; Philosophy; Punishment; Student School Relationship; Theories
IDENTIFIERS *Parental Authority; Rights And Duties

ABSTRACT

This paper sequentially reviews recent writings in moral philosophy (1970-1975) on topics related to the problem of morally justifying parental authority while adhering to democratic values. The problem is treated theoretically, and practical life problems are not addressed. The review ecompasses the works of some forty writers on the topics of the democratic ethic, authority, punishment, paternalism in law, moral education, and parental/filial rights and duties as these relate to the problem. It is concluded that the reviewed literature shows the strength of the democratic ethic and provides justification for parental authority. It is noted that both factors stand open to further definition and determination, within themselves and in their relation to one another.
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PARENTAL AUTHORITY AND THE DEMOCRATIC ETHIC

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PS 010929

October 8, 1976

Parental Authority and the Democratic Ethic

ABSTRACT

The large scale issues involved in the developing tension situation between loyalty to the democratic ethic and the exercise of parental authority are clarified as a problem in theoretical moral philosophy with attention to social, educational, political, and legal applications. Some forty writers in recent literature (with research concentrated on journal publications 1970-75) are reviewed sequentially on the topics of the democratic ethic, authority, punishment, paternalism in law, moral education, and parental/filial rights and duties as these relate to the problem. Both parental authority and democratic values are upheld by this research, thus validating the tension. Some possible lines of theoretical resolution are noted at the end, but not concretely pursued.

Parental Authority and the Democratic Ethic

The purpose of this paper is to cite a problem, to report some discussions in recent philosophical literature relevant to the problem, and to suggest some lines of thought with regard to it.[1]

The problem is that of the moral justification of parental authority in view of the democratic ethic. In the paper this is treated as a problem of theory, although practical life problems of child-rearing, schooling, community organization, social welfare, and national policy are closely connected to it. Practical life problems may be managed by attending to immediate needs and interests, by taking clues from appropriate sources, and by a liberal use of common sense. But so long as the theoretical side remains unresolved, decisions so based are open to new invasions of uncertainty and conflict; our understanding, and hence our responsibility, remains uncomfortably incomplete.

Issues on the theoretical side of our subject fall into the broad category of moral philosophy, with special attention to social, educational, political, and legal applications. Silk writes of a fundamental incompatability "between the democratic view that no authority is legitimate which is not in some way based upon the consent of those subject to it, and the anti-democratic view that children need to be 'inducted' or 'initiated' into the values, goals and beliefs of the dominant group."[2] Musgrove reports the historical decline of parental power in England and America, from the power of "nothing less than capital punishment" in pre-democratic 17th century, to the place where "the antique structure of paternal authority has been dramatically undermined by

[1]Research for this paper was made possible by a 1976 Summer Humanists in Residence grant from the Arkansas Humanities Program. Concentration was on the journal literature 1970-75, and references contained in it.

[2]D. N. Silk, "Authority and Consent in Education," Educational Theory, 24 (1974), p. 256.

twentieth-century legislation."[3] Worsfold speaks only of a theoretical challenge to the "well-established philosophical preconceptions of paternalism" in his recommending John Rawls' new libertarian theory which, while admittedly still paternalistic, "presents a more adequate framework for securing children's right to fair treatment," and making adults more accountable to them.[4] Rodham reviews the results of specific legal confrontations in America between parents and the state wherein "education has been the subject of continuous and often bitter struggles, primarily over the proper social role of education and the proper treatment of children within the schools."[5]

I would prefer to speak of a tension situation, where the values and principles on one side pull one way, and those on another side pull another way. In this case we have a tension situation between loyalty to the democratic ethic and the exercise of parental authority. The tension may be experienced painfully, or hardly experienced at all. It may produce creative response and new satisfaction, or destructive response and further frustration. What do the arguments of moral philosophy have to say about it?

Schrag's paper on "Rights Over Children" opens the way into the issues. When he says that "the inattention of philosophers to this topic did not prevent ideas about the scope and limits of parental authority from undergoing an enormous evolution from Roman times to our own day,"[6] we may believe that he is referring to the same process as Musgrove and the same problem as Silk. Schrag does not address himself specifically to the influence of democratic ethics, although he does express his doubts about the rationality of choosing "lofty ideals of freedom and equality" at the sacrifice of the survival of the species, depending as the latter does upon conditions of successful child care. The

[3]F. Musgrove, The Family, Education, and Society (London, 1966), pp. 1-8. Musgrove's radical conclusion from history is far from modest: "It is the business of education in our social democracy to eliminate the influence of parents on the life-chances of the young," p. 135.

[4]V. L. Worsfold, "A Philosophical Justification of Children's Rights," Harvard Educational Review, 44 (1974), p. 142.

[5]H. Rodham, "Children Under the Law," Harvard Educational Review, 43 (1973), p. 498.

[6]F. Schrag, "Rights Over Children," Journal of Value Inquiry, 7 (1973), p. 96.

justification for some kind of parental authority is therefore plainly based by the author upon the obvious "peculiar moral status of children" with respect to their "palpable deficiency of intellect" (from Jeremy Bentham). Schrag's question is rather about who ought to possess such rights over children, not on any foundational theory of them. Using careful definitions and distinctions from Plamenatz, Macdonald, Hart, and Golding, he accepts rights as arising out of the special circumstances of child-raising, entailing noninterference by others ("option" or permissive rights) and entitlement to social goods ("welfare" or obligatory rights), with some additional characteristics of general or "natural" rights:

> Rights over children contain both option and welfare rights. Among the former are the right of the "parent" to socialize the child which includes the right to punish it, to determine what a child shall wear and eat, what religion he shall be brought up in, what school he shall go to, etc. These could be summarized under the heading, the right to educate. Among welfare rights are the right to respect, consideration, and to a child's earning according to most legal codes.[7]

Doubtless this list was intended to be indicative rather than comprehensive or systematic. Probably aspects of physical care should be distinguished from socialization. For several philosophers it is crucial to distinguish socialization from education. The appropriate definitions of punishment and religion, and the legitimacy of their imposition, is disputed. Perhaps more may rightfully be required from children on some occasions than simply their respect, consideration, and earnings while minors . . . or perhaps less. Recent literature would certainly want to balance any application of parental rights by consideration of enforceable claims of the children themselves: "Only recently has attention focused on the rights of children who are subjects of state intervention, both against their parents and against the state when it assumes parenting responsibility."[8]

[7]Schrag, p. 97f.

[8]Rodham, p. 491. She summarizes the content of several "bills of rights" for children: "Adequate nutrition, healthy environment, continuous loving care, a sympathetic community, intellectual and emotional stimulation, and other prerequisites for healthy adulthood," p. 496.

In weighing the possible interests of the child, the parent, and the community, Schrag reaches no settled conclusion to his question as to whether parental authority should preferably be vested in the parents of a traditional family or in the experts of a modernized community. Personal values are contrasted to impersonal values, the stake of the family to the stake of the community, the possible realization of a social ideal to the threat to the rights of minority subcultures. Schrag gives good reasons why no empirical test would be decisive (agreed definitions of welfare and optimal development are lacking). He gives good reasons why no utilitarian criterion would be adequate (questions of the distribution of and the qualitative distinctions within "happiness" are inescapable). And while the appeal to justice is accepted as relevant, it is not accepted as sufficient. Choice of social arrangements may not even be a moral question exclusively. Schrag's salutary conclusion is that the philosophical contribution is simply to illuminate the question, not to provide the answer.

Several threads from Schrag's paper will be picked up for further examination in relation to the work of other philosophers. For my topic I prefer to generalize somewhat vaguely over who is to be the possessor of Schrag's rights (whether natural parent, adoptive parent, part-time voluntary parent, community- or state-selected specialist, some otherwise constituted guardian and guide, or some combination of these) in order to confront the authority-claim of such a moral agent (simply "the parent" in this paper) with the challenge of the democratic ethic. What is this challenge?

A. Selected Sources Representing the Democratic Ethic

While a whole picture of the roots of democracy is part of the whole history of western culture, the specific consciousness of the American tradition is adequately indicated by reference to (a) Locke, as a representative of the individualistic tradition of natural rights, presuming reason and responsibility, requiring free consent as the master key to moral obligation, threatening withdrawal at any considerable invasion of personal liberties and private economic interests, and to (b) Rousseau, as representative of the romantic tradition of faith in the common man, natural goodness, and wholehearted giving of oneself to the common good, the collective interest, with majority will the master key toward the greater welfare of the whole. Possibly these two sources are diametrically opposed, possibly they are both fundamentally the same, but we can cite John Stuart Mill as one who, grounded in individualistic empiricism, strongly affected by idealistic romanticism, sets our problem of an apparently uncompromising rejection of a parental type of

authority in his great Declaration of Moral Autonomy on behalf of modern man in a liberal western democracy:

> That the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. He cannot rightfully be compelled to do or forbear because it will make him happier, because in the opinions of others, to do so would be wise or even right.[9]

Admittedly the Lockeian assumption is at the forefront here, yet the absolutist tone (with the presuppositions of self-realization which undergird it) reveal the spirit of Rousseau as well. Literally taken the best-intentioned parent must stay the corrective hand, must still the corrective voice, no matter how concerned he may be over a basic matter of moral/religious principles (because it is "right"), a critical matter of social/political values (because it is "wise"), an urgent matter of personal/psychological dynamics (because it will make the child "happier"). Admittedly specific qualifications or exclusions of principle are made by all three of our classic sources in the obvious (and presumably unimportant) case of minor children, yet the avowed position is what sticks in the public mind. It is only after the deeper probings of character formation associated with Freud, Marx, Durkheim, Weber, Westermarck, and the anthropologists that the issue of child-rearing becomes importantly not so obvious.

More reflective of these later movements, as well as of the whole complication of 20th century experience, one central reference may be taken to sum up the full picture of the democratic ethic in its current maturity, the philosophy of John Dewey:

> Democracy is a way of life controlled by a working faith in the possibilities of human nature as that nature is exhibited in every human being irrespective of race, color, sex, birth, and family, or material or cultural wealth . . . . a belief which brings with it the need for providing conditions which will enable these capacities to reach fulfillment . . . . belief in the capacity of every person to lead his own life free from coercion and imposition by others

[9]J. S. Mill, On Liberty (London, 1859), in Chapter I, "Introductory."

> provided right conditions are supplied . . . . the capacity of the intelligence of the common man . . . . the habit of amicable cooperation--which may include rivalry and competition . . . both parties learning by giving the other a chance to express himself . . . . a moral ideal and so far as it becomes a fact a moral fact.[10]

The key in Dewey is always method, i.e., the quality of the process. Gouinlock brings out the point in his recent study:

> The democratic process itself is the means for the cooperative formation of values . . . . it is explicitly social and cooperative . . . . [resulting in] social experiments to be tried out and subjected to careful observation . . . . [with] the active participation of all those implicated in social action . . . . [in] the willing extension of scientific habits. For social intelligence to function throughout the entire community, in respect to value formation, means that that community is democratic.[11]

Sidney Hook summarizes the transition from the purely political conception of democracy to its conception as a whole attitude or way of life in his term "ethical democracy."

> The logic of the democrat's position compels him to go beyond the limited conception of political democracy--the equality of freedom--to a broader attitude extending to those other phases of social existence that bear upon the effective exercise of equality of freedom. This in fact has been the historical tendancy observable wherever democratic principles and programs are permitted to operate. Perhaps the synoptic phrase "social equality," whose connotation encompass political, educational, and economic democracy, may be taken as the most appropriate expression of the meaning of democracy in the broadest sense.[12]

[10]J. Dewey, "Creative Democracy," in The Philosopher of the Common Man (New York, 1940).

[11]J. Gouinlock, John Dewey's Philosophy of Value (New York, 1972), pp. 348-354.

[12]S. Hook, "Naturalism and Democracy," in Y. H. Krikorian, ed., Naturalism and the Human Spirit (New York, 1944), p. 50.

As expressive of such a whole way of life the democratic ethic is clearly far more inclusive in its intentions than the more limited principles of Locke or Mill, and it especially makes a profound and explicit application to the process of education and child-rearing. But it appears to be essentially no more compatible, and indeed perhaps less so, to all uses of authority and appeals to an authoritarian approach:

> In homes and schools, the places where the essentials of character are supposed to be formed, the usual procedure is settlement of issues, intellectual and moral, by appeal to the "authority" of parent, teacher, or textbook. Dispositions formed under such conditions are so inconsistent with the democratic method that in a crisis they may be aroused to act in a positively anti-democratic way for anti-democratic ends . . . .[13]

> The teacher is not an authority in dispensing ideas to be absorbed by his pupils, but a guide, a stimulus, and a catalyst in getting the child to make his own relations and connections, his own ideas.[14]

Something of this same ethical spirit comes out in the final section of Cohen's recent study. Having examined extensively the utilitarian or pragmatic "vindication" of democracy and the idealistic or rationalistic "justification" of democracy, he turns to the description of democracy as exhibiting "intrinsic values." These are noted as autonomy ("from a purely moral perspective . . . the autonomous character of democratic government is its most fundamental and perhaps most important feature . . . a value worthy of being prized directly for its own sake"), liberty (the most prized practical value), equality (the most prized theoretical value), and fraternity (a consciousness of community, the logically and temporally prior value): "Fraternity institutes the democratic community, as equality characterizes it, and liberty safeguards it."[15] To these values, again, the straightforward exercise of authority is alien, e.g., in heteronomy where "authority rests in some person or body external to the citizens at large . . . [and] the relation . . . is that of subordinates to superiors . . . laws coming from above and from outside the people

[13]J. Dewey, Freedom and Culture (New York, 1963), p. 129.

[14]R. D. Archambault, ed., John Dewey on Education: Selected Writings (New York, 1964), p. xxviii.

[15]Carl Cohen, Democracy (Athens, Ga., 1971), pp. 268-274.

themselves."[16] The clearest example of such heteronomy is the military organization, presupposing hierarchical authority structures and resulting in command relationships which are "intensely antithetical to democracy."

B. Selected Recent Sources on Authority

The democratic ethic thus vigorously challenges all authoritarianism, possibly any appeal to authority at all. Some clarification is desirable.

The collection of thirteen papers on the subject published by the American Society for Political and Legal Philosophy are the most convenient beginning point for recent philosophical discussion.

Against the "modern ethical image" of a person free and entirely responsible for himself on the one hand, and a traditional view of authority as "a great universal fact of creation" on the other, our present situation is radically ambivalent, according to Hendel, and consequently in special need of "thoroughgoing philosophy" to find some ground upon which to stand.[17] Citing Hume's "perpetual intestine struggle, open or secret, between authority and liberty [in which] neither of them can prevail," Hendel seeks some rational balancing between the American tendency to abolish all determinations by authority, and the necessity of some framework of traditional due process of law, neither one absolute, both limited by each other.

Friedrich--himself something of a dean of American political and legal philosophy of the last generation--takes the word back to patrum auctoritas, the authority of the fathers, vested in the Roman Senate as the body responsible for the "preservation of good auspices," but the important point for Friedrich is the search for wisdom of action, of which "the capacity for reasoned elaboration" is the essence. "The authority of X rests upon the fact that he could give extended reasons for the opinions he expounds . . . not that these opinions are conclusively demonstrable; indeed only where they are not thus demonstrable, the phenomenon of authority in the strict sense is involved."[18] Friedrich's

[16]Cohen, p. 270.

[17]C. Hendel, "An Exploration of the Nature of Authority," in C. J. Friedrich, ed., Authority (Cambridge, Mass., 1958), pp. 3-7.

[18]C. J. Friedrich, "Authority, Reason, and Discretion," in Friedrich, Authority, p. 33.

image is that of the judge who, if required, can usually defend his decisions upon communal values, but is not normally so required except in the most general manner, hence always exercising the indispensable element of discretion, quoting from Locke himself: "This power to act according to discretion for the public good, without the prescription of the law and sometimes even against it, is that which is called prerogative."

Hall's analysis gives six common characteristics of authority: (1) Exercised by persons with certain unique attributes whereby they can be recognized, and (2) acknowledged by others, but who (3) need not give their reasons when stating their ipse dixit by means of (4) an act of volition, command, determination of will with a certain degree of finality or arbitrary termination of inquiry, but one which (5) presupposes sufficient support by relevant knowledge, reason, and science (hence always in principle challengeable), and finally (6) implemented by genuine sanctions (at least in the law), usually of physical force.[19]

Coming down hard on characteristics (1)-(4) above, de Jouvenel isolates a "pure relation of authority" (from which other authority is derived), which is "efficient" whenever some B (or some set of Bs) does some A's bidding without any bribe or threat.[20] De Jouvenel then claims that, independent of all mythical and fictional explanations (favored by political philosophers), actual societies are constituted by the exercise of such authorities in various alliances and conflicts with one another. De Jouvenel also cites a contrast between the extreme conservative society which strives for a dual constancy of efficient imperatives ("constancy of sources and constancy of contents"), and the extreme liberal society (so-called free society) "where [all] members are equally entitled to utter commanding suggestions, and where they are [all] free to utter any such suggestions," which is softened in fact "by the unequal readiness of individuals to adopt suggestions."[21]

Simplifying Malinowski's definition into "the explicit capacity to direct the behavior of others," Hoebel stresses the universality, centrality, pervasiveness, and necessity of authority in anthropological evidence, from diffuse, ambiguous, altruistic, modest, and egalitarian beginnings in

[19]J. Hall, "Authority and the Law," in Friedrich, pp. 58-66.

[20]B. de Jouvenel, "Authority: The Efficient Imperative," in Friedrich, pp. 159-164.

[21]de Jouvenel, pp. 165-167.

small, unsegmented societies, to highly articulated, reinforced, multiphasal, institutionalized, complex, pyramidal organization in larger more civilized and segmented societies. He sums up: "Authority is implicitly essential to biological and cultural survival."[22]

Many of the writers in Friedrich's volume refer to parental authority explicitly, two of them especially. Spiro asks about the different ways in which individuals in our society accept policy decision:

> A child accepts decisions made about his fate by his parents, at first because the alternative of nonacceptance does not occur to him, later perhaps simply because the parents are older. This kind of authority based upon seniority may be due to the greater resources for implementing decisions which the older person controls. As the child himself grows older, authority is more likely to be based also on his recognition of the knowledge and experience of his parents. Thus, there is a combination of factors which lends authority to parental policy towards children, and the center of gravity in this combination changes over time.[23]

Spiro observes that much the same combination of factors applies also to acceptance of teachers' policies, although shifting decidedly toward knowledge and competence in relation to specialized goals, and generally "away from the individual who made it and his qualities" as the student's own capacities are developed.

Friedrich gives a bit more formal classification of the reasons given to the question "why should I obey X?"

(1) Because X is older, is your parent, is your king (status in a hierarchy);

(2) Because God (the divine, the sacred) has commanded you to obey X (religion and faith);

(3) Because X will make you a present, his successor, his heir (interest and advantage);

(4) Because X loves you and you are devoted to him (personal affections and loyalty);

[22]E. A. Hoebel, "Authority in Primitive Societies," in Friedrich, p. 233.

[23]H. J. Spiro, "Authority, Values, and Policy," in Friedrich, p. 50.

(5) Because article so-and-so of the code requires you to obey X (law and sanction).[24]

Friedrich also speaks of a combination of reasons for parental authority (actually all of the reasons above might apply), and of a shift in the use of these reasons as the child grows older, yet his full position seems to be more complex and perhaps not fully clear. Recognizing that parental authority has been particularly controversial in our time, Friedrich chooses to give it some special attention. He refers to it as a kind of "primordial authority," arguing that while aspects of it (the "power" aspects) have rightly been challenged, other aspects remain genuine, specifically:

> . . . that the child increasingly gains insight into parental orders and regulations, into parental opinions and beliefs. The child learns to relate both to basic values, and thereby comes to share these values with his parents. Such insight anticipates the insight into the regulations and opinions of the larger community, the church, the school, and eventually the polity.[25]

Friedrich's discussion, therefore, reflects his master principle concerning the justification of authority (the "ontological" reason for obeying X);

(6) Because X has the capacity for reasoned elaboration of his decisions in relation to common values (history, philosophy, ontology).

This reason also connects closely with the optimum exercise of parental authority (the reason why it is or may be "primordial"):

> For in the family certain basic values are absorbed by the child in the early phase of socialization. . . . The power of the parents having inculcated the basic values of human relations to the child, the parent is thereafter able to base reasons upon these values, and thus to become an authority

[24]Friedrich, Authority, p. 32, together with C. J. Friedrich, Tradition and Authority (New York, 1972, p. 50.

[25]Friedrich, Authority, p. 34. In Tradition, Friedrich speaks of the "analogy" of authority from the family to other social relationships, mentioning specifically a similar process of moving from simple power and persuasion to greater cooperation and understanding in the "founding of organizations," pp. 58f.

(in the full sense of the word) in lieu of a power-wielder.[26]

But, since all conflict of authority is conflict of value (and reason), such primordial parental authority may be the source of some of the most serious conflicts of personality (and society?). And if the power of the parent seeks to maintain itself without growing participation and insight into shared values, "authoritarianism" (better termed "totalitarianism") arises.

Knight's paper takes specific account of the rise of the democratic idea and ideal, one effect of which is to restrict the "rightful" exercise of power by persons over persons to "only where [obviously] necessary, as in the relations between parents and children, who are not in the full sense persons." But, reflecting the tension-situation of our time, Knight argues that the survival of free society now depends upon the acceptance of the necessity of an authority which goes beyond those limits, and to that end people "must outgrow the romantic oversimplifications of the doctrinaire liberalism of the Enlightenment and the nineteenth century, of which J. S. Mill was the leading apostle," the all-too-imminent alternative being "to undermine the sacrosanct institution [of the family] . . . that most inviolable sphere of freedom itself."[27]

More recent and more technical philosophical discussions over the nature of authority and its justification have arisen. Some of these have been in response to Wolff's much-discussed essay rejecting political authority in view of the principle of moral autonomy. Taking obligation to obey as the implication of justified authority, i.e., "the right to command, and correlatively, the right to be obeyed," and moral autonomy as self-legislation, i.e., "not subject to the will of another,"[28] it seems to follow speedily that no one can be subject to the morally justified authority of another. While similar to Cohen's point regarding "heteronomy" above, Wolff's argument has the effect of undermining all moral justification of practical democracy as well.

Bayles cites three defects in Wolff's argument. The first is his failure to distinguish between prima facie and

[26]Friedrich, Tradition, pp. 59f.

[27]F. H. Knight, "Authority and the Free Society," in Friedrich, Authority, pp. 69-77.

[28]R. P. Wolff, In Defense of Anarchism (New York, 1970), p. 4.

absolute or overriding obligations. Wolff seems to accept the obligation to keep promises (including contracts), so, "since the obligation to keep a promise can override that of autonomy, one's obligation to be autonomous must be prima facie" and hence not absolute nor overriding.[29] This rebuttal allows the revival of the whole contract theory of modern democratic government. Second, since government authority, even though claimed to be in some sense unlimited or ultimate is not thereby absolute, no conflict necessarily exists between moral autonomy (even though allowed to be absolute) and the legitimate exercise of relative political authority (even though allowed to be ultimate). And finally, Wolff fails to distinguish the proper subject matter of autonomy ("responsibility for making final decisions") and (a) the use of rules, (b) the acceptance of possible nonmoral obligations, and (c) the use of authority to determine content of duties.

In addition to these refutations by Bayles, a paper by Bates makes use of Rawls' distinction between one's conception of the best policy in given circumstances under an accepted constitution--which may properly be submitted to a majority-type of vote--and the principles of accepting the original constitution itself--wherein the preservation of freedom or moral autonomy may be nonnegotiable.[30]

Baier's paper, however, is far more extensive, involving a rejection of Wolff's thesis to the extent that the latter might be included in a more general set of arguments from freedom or arguments from autonomy which are examined therein. Baier concludes that the justification of government authority does not require either the alleged legalistic mistake of believing "that one can by an act of will change the moral character of a type of act, in the same way as a legislator can by his fiat change its legal character" (the argument from freedom), or the alleged legalistic mistake of "thinking of right/wrong on the model of constitutional/unconstitutional" (the argument from autonomy).[31] Of more importance for our topic is Baier's distinction between a "grounding condition" which provides sufficient normative reason to accept an authority principal or agent (within a certain scope, about certain matters, for

[29]M. D. Bayles, "In Defense of Authority," Personalist, 52 (1971), p. 756.

[30]S. Bates, "Authority and Autonomy," Journal of Philosophy, 69 (1972), p. 178.

[31]K. Baier, "The Justification of Governmental Authority," Journal of Philosophy, 69 (1972), p. 702.

certain persons, to do certain things), and an "effectiveness condition" which provides a sufficient explanatory reason for complying with an authority (similarly limited as above). Authorities (like parents) may fulfill a groundedness condition without fulfilling an effectiveness condition (they are "robbed of their authority" for one reason or another), and vice versa (they are "too authoritarian"). Arguments over parental authority (such as Schrag's) may also follow Baier's distinction of two types of authority: Natural authority, "determined by the natural qualities of the principal," and conventional authority, "determined by the conventional powers attached to the position or role occupied by the principal." There is, furthermore, an ambiguity in "de facto conventional authority" as to whether it means that the authority is merely effective and not grounded (narrow use), or apparently effective and possibly also grounded (wider use). Bypassing the detailed arguments whereby he claims that government authority may be justified without committing the alleged mistakes of violating freedom and autonomy, I wish to note only Baier's final tentative doubt as to whether all forms of moral heteronomy really are morally objectionable. "Is there not such a thing as natural moral authority and legitimate recognition of it, at least on questions of casuistry?" he asks. "Is not the government, in relation to some moral matters . . . often better informed that individuals about what is needed and what it would be morally desirable for everyone to do, say, in economic, military, or population matters?"[32] These questions leave the door open for a possible special justification of parental authority.

Perhaps the most direct refutation of the anarchist's challenge is given in the paper by Goldstone and Tunnell who provide convincing grounds for rejecting the premised definition that Wolff, and others, use of authority as consisting essentially of the right to "command." Rather (closer to Friedrich and Hall above) they define it as "the right to make decisions which bind others to certain courses of conduct, or the right to make decisions about what is the case which others must abide by."[33] There are, therefore, far more uses and practices of authority--to bequeath, to

[32] Baier, p. 715. In the former case the author cites the "heteronomous peasant" who accepts the priest's judgment without necessarily failing in a (methodological) duty.

[33] P. Goldstone and D. Tunnell, "A Critique of the Command Theory of Authority," Educational Theory, 25 (1974), pp. 136f.

proclaim, to define, to judge, to permit, to approve, and so on--than the "command" definition suggests. "To focus narrowly on commanding as the essential activity of authority does not merely misdescribe authority, it also lays the groundwork for moral and educational confusion." Specifically it connotes the authoritarian fallacy: "A is authoritarian if he is disposed to give commands, when giving commands violates some set of norms or standards by being excessive in number, or overly harsh, or unnecessary in context." While the authors probably oversimplify the psychology of autonomy and military (athletic? competitive?) training, they specifically link the possible use of parental-educational authority with the achievement of democratic values in contrast to the over-emphasis on command functions (similar to Cohen's point above):

> Although parents sometimes command their children and teachers their students, it is nonetheless true that commanding is most at home in military and quasi-military contexts. But while no one ever speaks of the purpose of military authority as being to produce autonomous soldiers, it is frequently said (though less frequently followed) that the use of authority in both the family and the school is justified (in part) when it is directed to achieving the autonomy of those subject to it . . . . Once we conceive of commanding as definitive of authority, it becomes impossible to see the moral difference between those uses of authority that aim at autonomy and those that do not.[34]

C. Selected Recent Sources on Justification of Punishment

The question of the justification of punishment has elicited even more copious philosophical discussion in recent writings. Although connected with authority--especially legal, political, or governmental authority--the imposition of sanctions is not a part of every definition of authority reported above. Therefore the justification of punishment can be given separate attention. It is included among Schrag's "rights over children" and is generally ignored or opposed (or "deposed") in the practical applications of the democratic attitude.

Baier tries to simplify the definition of punishment: "To say that someone has punished someone else is to say

[34]Goldstone and Tunnell, p. 137.

that someone entitled to administer the penalty for a certain offense has administered this penalty to the person who has been found guilty of this offence by someone with authority to do so."[35] This includes the elements of the standard case recognized by Flew (relying heavily on Mabbott): (1) It must be an evil, an unpleasantness, to the victim (not necessarily a "pain"), (2) it must be for an offence (at least be supposed to be), (3) it must be of the offender (at least supposed to be, because "scapegoat" applications, if allowed by anthropologists and psychologists, are stricly metaphorical, secondary, non-standard uses); (4) it must be the work of personal agencies (implied by Baier's use of "administered"), in contrast to purely natural results of presumed misbehavior; and (5) it must "be imposed by virtue of some special authority, conferred through or by the institutions against the laws or rules of which the offence has been committed" (at least be supposed to be).[36] The latter point Baier elaborates by pointing out that punishing is only a part-activity belonging to a complex procedure involving several stages: "Giving orders or laying down laws, affixing penalties to them, ascertaining whether anyone has disobeyed the commands or laws, sentencing persons found guilty, . . ." He speaks of this as the "whole 'game' consisting of rule-making, penalisation, finding guilty of a breach of a rule, pronouncing sentence, and finally administering punishment."[37]

It is germane to notice that Baier's analysis specifically includes parental punishment in which the various stages of the "whole game" may be very informal and compressed but are "quite definitely implied" whether tacitly or not:

> There must be someone, such as a father or legislator, whose job it is to prescribe or prohibit the doing of certain things or types of thing by certain people, in the form of commands or regulations, someone whose task it is to decree how a person disobeying these commands or regulations shall be treated, someone, such as a father or policeman, entrusted with the task of detecting cases of disobedience, someone,

[35]K. Baier, "Is Punishment Retributive?" in H. B. Acton, ed., The Philosophy of Punishment (New York, 1969), p. 130, and in G. Ezorsky, ed., Philosophical Perspectives on Punishment (Albany, N.Y., 1972), p. 16.

[36]A. Flew, "The Justification of Punishment," in Acton, pp. 86f. Marshall's article, discussed below, adds an additional element: (6) of a person responsible for his actions.

[37]Baier in Acton, p. 131; in Ezorsky, p. 17.

> such as a father or judge, charged with meting out the penalty for such disobedience, and someone, such as a father or executioner, charged with administering it. Of course, all these different tasks may be entrusted to one and the same person, as in the case of punishment by a father or teacher.[38]

Again, it is germane to notice the strong emphasis on or necessary inclusion of reference to a "rule system" both to constitute the offense and the authority. "Direct action by an aggrieved person with no pretensions to special authority is not properly called punishment, but revenge."[39] In accepting the use of "punishment" in connection with any system of rules or laws, Flew partially allows "moral" applications, partially distinguishes them from "legal." This is an example of the "open-textured" or uncertain usage in ordinary language in which there is no "unanimity rule" about the satisfaction of all the criteria.

Philosophical discussion has centered around "theories" of punishment, partially involving logical analysis (emphasized, typically, by the British philosophers in Acton's volume), and partially involving social policy (emphasized, typically, by the American philosophers in Ezorsky's volume). Ezorsky summarizes the three varieties of justification arguments: Purely teleological (primarily utility principle), purely retributivist (primarily justice principle), and some combination of teleological/retributivist.[40] Acton summarizes the four stages of British analysis and justification arguments: Idealist/realist philosophers (reference to moral guilt, moral rights, and the ideal social good), the logical positivist philosophers (separating the purely legal from the theoretically moral, e.g., in Mabbott), the Wittgensteinian stage (analysis of punishment game in relation to other social activities), and the concept-clarification stage (analysis of punishment in relation to different associated notions such as blame, desert, and mercy).[41] Some general results seem to be: Agreement on the complexity of the issues, caution about any simple or unqualified social utility or moral retribution argument, recognition that therapy-and-reform proposals have their own analogous problems so long

[38]Baier in Acton, p. 130; in Ezorsky, p. 16f.

[39]Flew, p. 87.

[40]Ezorsky, pp. xi-xxvii.

[41]Acton, pp. 9-38.

as elements of coercion on the basis of policy decision are involved, acceptance of the broad criteria mentioned above as having presumably valid social application (in spite of complicated psychological issues), while admitting that purely linguistic or logical analysis alone fails to obtain sufficient justification for such validity.

Philosophical uncertainty on the theory of punishment--once the requisite clarification of the concept itself and its implications has been approximated--might therefore lie rather in what is involved in "justification." Flew's paper speaks of this term as "multiply relational." "Justification has to be of A, rather than B, against C, and to or by reference to D; where A is the thing justified, B the possible alternative(s), C the charge(s) against A, and D the person(s) and/or principle(s) to whom and/or by reference to which the justification is made."[42] Flew also rightly challenges the implications in the use of the definite article (the justification of X) since it is important to recognize different justifications for different persons and/or principles (item D). Using or rejecting reasons "is abandoning pure analysis to take sides, as all men must, in a struggle . . . . It is making a normative, participant's utterance and not a purely analytic neutral's observation."

Barnett's diagnosis of such a shift to normative justification procedure is rather radical: "Bluntly stated, our reasons and justifications have little or nothing to do with our actual behavior."[43] Punishment is one thing; our attempted justification is something entirely different. Flew's multiple relation is an illusion, in Barnett's view. And since the demand for justification itself originates from some "system of authority" with its own standards of "intelligibility" to define the "context of social obligation," our only existential option is "either to put ourselves in the power of those to whom we explain ourselves, or to take responsibility for our own nonsense." This provocative conclusion, however, seems at odds with the persuasive implications of Barnett's initial analogy that our intellectual existence needs perspective (meaning/theory/reason) as our physical existence needs location and our biological existence needs habitat.

Raz's paper contains a rather more intricate view of the relation between reasons for action and mandatory norms or

[42]Flew, p. 88.

[43]P. H. Barnett, "Justification and the Intelligibility of Behavior," Journal of Value Inquiry, 9 (1975), p. 33.

rules (the kind of rules and principles with which moral, legal, and political philosophers have been most concerned). "Mandatory rules are regarded by those who follow them as both a first order reason for performing the norm-act and a second order reason for not acting on conflicting reasons."[44] In the first order application the rule is accepted on the merits of the case (because it does the most good, is most fair to all, etc.). In the second order application (something like Barnett above) it is accepted as a practically necessary decision under the circumstances (to save time, to avoid temptation, to stop procrastination). Also:

> People often believe they have a reason in a particular situation to follow standards laid down by authority regardless of the balance of reasons which apply to that situation. They think that being subject to authority means precisely that. It means that they ought to follow the authority even if it is wrong. One is not submitting to authority if one does what one has reason to do anyway (i.e., if it is a first order reason).[45]

Raz notes the close similarity between the role of decisions as reasons and promises as reasons:

> Both are based on the idea that people should have a way of binding themselves by intentionally creating reasons for action. The Promise Keeping Principle states that they create a reason to do A if they express an intention to another person to be bound to do A. The Decision Principle states that people can create an exclusionary reason to exclude further consideration by deciding . . . . Both principles are sound practical principles, though both can be abused by making a promise or a decision which should not be made.[46]

One might be tempted to oversimplify the similarity by speaking of promises as two-party decisions and decisions as one-party promises. Without fully explaining himself, Raz would attempt to preserve the distinction between an institutionalized rule, a prescribed rule, and a valid rule (the

[44]J. Raz, "Reasons for Action, Decisions, and Norms," Mind, 84 (1975), p. 496.

[45]Raz, p. 498.

[46]Raz, p. 493.

last being "one that is justified, i.e., a rule the norm-subjects of which should follow").

Baier attempts to give a full first-order justification for the validity of enforced requirements including punishments: "A strong case can be made that the existence of strong social sanctions (even amounting to the use of force) is justified, provided they are used in support of distributive precepts of the kind I have tried to characterize."[47] These precepts (Raz' mandatory rules or norms) seem to have three major components: (1) "Anyone following them can expect that such behavior will favorably affect his life if and only if they are followed by all or by a substantial portion of the classes of people to whom they apply" (this makes them "distributive" in Baier's terminology); (2) they are adopted by the community "as an appropriate minimum standard of acceptability to which everyone should measure up;" (3) and it is "preferable from anyone's point of view to have these precepts accepted as overriding, rather than let natural inclinations prevail."[48] The strong social sanctions thus justified will provide "adequate reasons" for people to follow them.

But in his critical comments on Baier's paper Lyons suggests that, since people do not always follow precepts in their own interests anyway, social intervention may be justified on Baier's first-order utility grounds even for the "reflexive precepts" which were set aside (because the following of them are favorable whether others follow them or not). Thus, for example, the parent may punish the child for playing with fire even though it is in fact reflexively painful to play with fire. And Lyons goes on to suggest a further extension--the dangerously Skinnerian implication of all utility arguments--that sanctions may be justified which not only give us reason to conform but actually make us conform. (Baier thus needs a Rawlsian freedom principle to check this.) Finally Lyons notes that in the characterization of the third component--whether "from anyone's point of view," or "for the good of everyone alike," or "all persons equally"--"the range of possibilities obviously fills a wide spectrum that might be accommodated to considerations of justice in the distribution of benefits and burdens."[49]

[47]K. Baier, "The Practice of Justification," Journal of Value Inquiry, 9 (1975), p. 41.

[48]Baier, pp. 38f.

[49]D. Lyons, "On Justifying Enforced Requirements," Journal of Value Inquiry, 9 (1975), p. 47. It is within this wide

Still, the issue of punishment and the justification of it might be different for child-rearing situations as contrasted to legal systems for adult populations. Grave doubts have been expressed on this matter. Relying heavily on the Acton volume, Marshall gives evidence of the substantial differences between hard treatment for offenses administered to school children and to adults.[50] This may be summarized as follows:

(1) While we punish adults only for breaking laws we come down hard on children for a whole host of actions which might be described as "unreasonable behavior," and including specifically "the breaking of moral rules in the area of personal conduct," which for adults "are not obligatory in the same ways as laws are obligatory."

(2) In many cases the child is not fully "answerable" (was not aware that it was obligatory), or "accountable" (did not formulate deliberate intentions), or "blameworthy" (did not sufficiently intend to commit the offense or fail to intend to avoid it).

(3) One child may be selected for discipline because he is "ripe" for it or "can take it," where another offender may be intentionally let off for contrary reasons, thus making such treatment juridically unfair.

(4) Or a child may be disciplined knowing him to be innocent (in group punishments), making such treatment juridically unjust.

(5) A school may properly be designed so that children can make mistakes and learn from them, rather than be punished for them.

From such evidence Marshall's conclusion is that "there is such a polarity that there can be no basic or common meaning between the term 'punishment' as used to describe the action inflicted upon an adult and the term 'punishment' as used to describe the action inflicted upon a school child." Since the use with adults is the basic or primary meaning, the use of the same term with children is a misdescription, leading

spectrum that much of the discussion of Rawls and his critics has ranged in the attempt to find a rational method of determining whether or not the rules of distribution are fair ("just") or not.

[50]J. D. Marshall, "Punishment and Education," Educational Theory, 25 (1975), pp. 148-155.

to his recommendation "that the concept of punishment be expunged from our descriptions of unpleasant actions which we inflict upon children . . . ."[51]

D. Selected Recent Sources on the Justification of Paternalism

Marshall's analyses and conclusions concerning the punishments of school children are heavily weighted on the issues of freedom and responsibility, perplexing enough in themselves, perhaps even more perplexing in relation to younger developing persons. He certainly does not wish to defend anything like the literal use of Mill's pure principle of autonomy (never interfere for the child's own good in the running of schools) although he does not discuss either why he thinks punishments for adults and unpleasant disciplinings for children are justified. But a number of recent papers have been seriously concerned with paternalism in the law, defined by Dworkin as "the interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests, or values of the person being coerced."[52] Such interference is hardly an anachronism, but on the contrary, as Hart states: "Paternalism--the protection of people against themselves--is a perfectly coherent policy. Indeed, it seems very strange in the mid-twentieth century to insist upon this, for the wane of laissez faire since Mill's day is one of the commonplaces of social history, and instances of paternalism now abound in our law, criminal and civil."[53]

Dworkin is first concerned with clarification of Mill's principle. Not surprisingly, he finds that it (like "the democratic ethic" generally?) is a blend of two principles. One is the familiar utilitarian argument. But under strict application the paternalistic prohibition here becomes demonstrably false (or wrong). The other--"that there is a part of the life of every person who has come to years of discretion, within which the individuality of that person ought to reign uncontrolled either by any other person or by the public collectively"--is a "non-contingent" argument (the example of voluntary slavery is given), but strict

[51]Marshall, p. 155.

[52]G. Dworkin, "Paternalism," Monist, 56 (1972), p. 65.

[53]H. L. A. Hart, "Paternalism," in Law, Liberty, and Morality (London, 1963).

application here, too, is at least partially false (or wrong). A careful examination of a number of plausible cases of existing laws (safety regulations, work restrictions, licensing, interest rates, social security, smoking, drugs, seat belts, dueling, suicide) leads the author to conclude that there are a number of types of situations (which should be carefully guarded) in which "rational men would agree to granting the legislative powers of a society the right to impose restrictions on what Mill calls 'self-regarding' conduct," the chief ones being "in those instances in which it preserves and enhances for the individual his ability to rationally consider and carry out his own decisions."[54]

Like Mill, Dworkin recognizes the anomaly of the nonage person which might be rhetorically alleviated by appeal to a post-hoc or "future-oriented consent:"

> Given these deficiencies and given the very real and permanent dangers that may befall the child it becomes not only permissible but even a duty of the parent to restrict the child's freedom in various ways. There is however an important moral limitation on the exercise of such parental power which is provided by the notion of the child eventually coming to see the correctness of his parent's interventions.[55]

Dworkin feels free to dismiss, because of its "dangers," the "idealist" extensions of this argument to apply to chronologically mature individuals who are also not yet fully rational.

Ten's paper seeks to make a more definite distinction between the enforcement of morality (which might be a legitimate parental power) and paternalism in the law which is only legitimate by concentrating upon the decision-aspect rather than (as Dworkin does) the consequence-aspect. "Paternalism involves the protection of individuals from harming themselves in situations where their decisions are impaired."[56] Examples are special categories of persons (children, mentally ill, or subnormal), special circumstances of limited knowledge (fraudulent representation) and limited

[54]Dworkin, pp. 74-83.

[55]Dworkin, p. 76.

[56]C. L. Ten, "Paternalism and Morality," Ratio, 13 (1971), p. 63.

control (temporary emotional unbalance, addictive drugs), and undue influence (use of coercion, economic inducements). Unlike the (questionable) enforcement of morality where legal sanctions are directed against the subject himself, the (legitimate) sanctions of established paternalism, like those of a protective parent, are really directed against the other party who would exploit the deficiency of the subject. But such a restriction does not meet the larger range of cases of "social legislation" which Dworkin includes.

Interference with and control of the subject's behavior--whether "paternalistically," through "punishments," or through some other exercise of "authority"--might be objected to on some grounds of egoistic ethical theory, whether citing Mill's ambiguous testimony or not. Gauthier's paper presumes to provide a strict calculative proof, using game theory and utility theory, that there are possible situations where no purely egoistic principle of action can logically or mathematically provide a person with a definite decision which will maximize his own interest. The demonstration presumes to show the internal incoherency or irrationality of the egoist strategy as a universal rule. While couching the practical implications of his proof with some qualification, Gauthier does venture these conclusions: (1) "Practical rationality cannot be identified with unrestricted maximization"; (2) if egoistic behavior is ever rational it must be so only "by derivation from some more general characterization of practical rationality, which can be applied to all situations"; (3) which, if utility maximization, must be so only "as a general policy rather than as a particular manner of acting applicable to each situation"; and (4) since egoists require situations that are fully stable in the strong sense of providing them something which being a loyal member of a group cannot provide, and "not all situations possess outcomes or even expected outcomes with this full stability," then "egoism fails because it postulates an ideal that need not be actual."[57]

If Gauthier's paper thus seems to provide very analytical grounds for the value of instilling some sense of personal loyalty and trust (to which the exercise of parental authority might be directed), Quinn's paper provides somewhat similar grounds for the necessity of instilling devotion to some impersonal sense of norms-rules-principles (to which the

[57]D. Gauthier, "The Impossibility of Rational Egotism," Journal of Philosophy, 71 (1974), pp. 455f.

exercise of parental authority might also be directed).[58] Egoism might claim not merely to be the best position for one's own self-interests (which Gauthier refutes), but also claim to be the only right or moral position. But if it does, Quinn shows through a complicated argument that it is thus postulating an impersonal sense of approbation (that something is approved as right or good in a logical, non-personal or general sense) that entails the egoist's giving moral consideration to doing something (which, if consistent, he ought to do) even if it is not a matter of his own self-interest to consider doing it (or to do it). For example, throwing the drowning stranger a life preserver with neither cost nor advantage to oneself "ought to be done even if one gains nothing by it," since there is a real moral consideration for doing it under the (universal) egoistic principle. Thus, "the egoist's need for the concept of moral rightness implies a further need for the impersonal concept of moral goodness."[59]

A rather special criticism of individualist theory can be noted in conclusion to this section. Rawls' theory of justice is certainly not based upon an egoism which rejects the validity of common interests or impersonal moral norms. But it is an individualism which seeks to obtain an independent criterion of social evaluation on the basis of individual self-interest. Teitelman focuses his critical notice on this issue of the possibility of an "Archimedean point of view," attempting to indicate how Rawls' program of deriving acceptably just social principles from a neutral model of individuality is incoherent: "It sets certain aims for itself and also adopts certain requirements on the method of attaining them, in such a way that either the aims or the methodology must be forfeited."[60] Appeal to the primary good of self-respect is one aspect of the method upon which the appropriate exercise of parental authority in a family situation might take a stand. Teitelman observed, "from the standpoint of the theory of right, a person can have a sense of self-respect only if he or she is recognized as a moral personality by the other members of the community," and from the standpoint of the theory of good, "self-respect is a sense of one's own worth as a person acquired in the achievement of excellence in a life plan and in having this

[58]W. Quinn, "Egoism as an Ethical System," Journal of Philosophy, 71 (1974), pp. 456-472.

[59]Quinn, p. 472.

[60]M. Teitelman, "The Limits of Individualism," Journal of Philosophy, 69 (1972), p. 547.

excellence recognized and appreciated by others."[61] In contrast to Rawls' individualistic presupposition, Teitelman refers to Marx's recognition that human nature is "an ensemble of social relations." And behind Marx (and Dewey), of course, lies the influence of Hegel's philosophy, in partial contrast to that of Kant (and Mill).

E. Selected Recent Sources on Moral Education

Schrag summarizes the rights over children as "the right to educate." Jones' paper stretches this point to the right to receive a moral education. "The right to a moral education is inalienable; one cannot rightly insist that he does not want it or that he would like to get rid of it."[62] Jones recognizes that it is frequently in the parents' interests that their children learn and follow moral rules: "Parents are legally responsible for many of the actions of their children; and if a child has a moral education, he is less likely to lie or to steal or to vandalize. If he does not have a moral education, he is more likely to perform actions whose consequences involve serious costs in money, pain, and embarrassment."[63]

These parental interests are often coincident with public interests--"fewer lies, thefts, assaults, rapes, and killings"--and quite arguably contribute to the greater welfare of the child himself, as well. Yet such "consequentialist" (or utilitarian) arguments are inadequate to gain the true essence of the obligation which lies in the right of the child to become a responsible person, for which moral education is essential. Moral indoctrination, in contrast, might provide sufficiently for welfare interests alone, but not for the development of moral personality.

Considerable influence is currently being felt from the Piaget-Kohlberg theory of distinctive, natural, demonstrable stages of moral development.[64] Baier summarizes the moral

[61]Teitelman, p. 554.

[62]H. E. Jones, "The Rationale of Moral Education," Monist, 58 (1974), p. 666. R. M. Hare, like Jones, also keys on the purpose of teaching, rather than merely its form or content, as what distinguishes moral "education" from "indoctrination," in Applications of Moral Philosophy (London, 1972), chapter on "Adolescents into Adults."

[63]Jones, p. 661.

[64]See L. Kohlberg, "The Claim to Moral Adequacy of a Highest Stage of Moral Judgment," Journal of Philosophy, 70 (1973), pp. 630-647.

development school: "A cognitively steered, rational progress through a series of sharply distinct, rigidly sequential, stages, each stage superior to the preceding one, each advance brought about by the recognition of some inadequacy of the stage then occupied and constituting an improvement upon it."[65] In this process of six stages, the explicit exercise of parental authority occupies an important and necessary, but strictly transitional, role in stages three and four. Orr criticizes the manipulative application of the theory (so evident in its spiritual forebear, Rousseau, as well): "The welfare model remains, by definition, paternalistic. The agenda gets set by experts. In moral education these experts must have training in the cognitive-development tradition and must possess knowledge about the moral judgments of children at various stages."[66] Against this model Orr poses the more openly realistic position of the social ethicist, in which "a return to the original gross generalizations of the fathers may yield more useful insights."

Perhaps the work of Peters carries an even stronger influence than that of Kohlberg, and here the exercise of parental authority becomes more explicit and intrinsic: "Sensible children, who are capable of reasoning later on, emerge from homes in which there is a warm attitude of acceptance toward children, together with a firm and consistent insistence on rules without much in the way of punishment . . . [in] a type of social environment for which adults are largely responsible . . . [who] provide a structured and supportive type of social environment."[67] Moral rules could not be learned, Peters affirms, merely by a mixture of trial and error, and watching others, or by strict conditioning, since conceptual distinction is necessary, which "requires instruction, explanation, and other teaching methods by means of which content is marked out." In this paper, as elsewhere, Peters refers specifically to "firm authority structure" and "the wise use of authority."

[65]K. Baier, "Moral Development," Monist, 58 (1974), p. 603.

[66]J. B. Orr, "Cognitive-Developmental Approaches to Moral Education: A Social Ethical Analysis," Educational Theory, 24 (1974), p. 372.

[67]R. S. Peters, "Moral Development and Moral Learning," Monist, 58 (1974), pp. 552f.

Silk's criticism of Peters has already been noted at the beginning of this report, namely the confusion generated by appeal to one principle (authority) in the name of another principle (democratic consent) which is contrary to it. "It is difficult to believe that students voluntarily enter into authority relationships with teachers to meet needs based upon norms which they do not yet accept."[68] Vandenberg's paper thus suggests a supplementation of Peters' "analytic" theory with a more "existential" theory (for which he cites J. Nabert, Elements for an Ethic). "Peters does not adequately take the subjective factors into account."[69] Essential among these latter are: The individual as conscious center of existence, duty as moral motivation, development of personal moral reflection (of which reticence, mistake, failure, guilt, solitude, despair are evidences), aspiration toward genuine being. "The individual project of being can begin only within duty because only duty reveals to the self the desire to be and turns it toward possibilities of being . . . through the feeling of fault [arising] pedagogically through punishment . . . [for which] the teacher has obligation to the pupil . . . to initiate moral growth."[70] Thus, for example, enforcement of the tardiness rule is not merely "to maintain the minimum conditions of order" (Peters), which might well lead to alienation of the pupil, but a sense of moral responsibility because other children are there and he himself will miss the first part of the lesson.

Klein outlines an attractive large-scale framework of values within which both parental authority and the democratic ethic can find their place in the moral education of the individual. The key factor in what he calls "an ideal culturally pluralistic society" is the proper balancing of the interests of the individual, the cultural community, and the larger society. It is in the cultural community that the exercise of parental authority has its role. What is this role? "The values shared by the cultural community can be seen as materials from which a person's identity is made . . . . The larger society should protect the right of each cultural community to maintain its own value and pattern of life. Yet there should be a reciprocal obligation on the

[68]Silk, p. 253.

[69]D. Vandenberg, "School Rules and Their Enforcement in Analytic/Existential Perspective," Educational Theory, 22 (1972), p. 198.

[70]Vandenberg, p. 205.

part of the cultural community to cooperate . . . ."[71] This picture of a balancing or harmony of interests between different dimensions of human life guides the principle of moral education in which each has a role to play. "A morally educated person in an ideal culturally pluralistic society would have a morality of his own, an individual morality, would be committed to a group morality, and yet be aware of other group moralities and treat them with respect, and would be sensitive to the need for solving problems in the larger society which transcend himself and the particular cultural group in which he participates."[72] Thus Klein wishes to integrate his view specifically with the democratic ethic: "These values which emerge as central to an ideal culturally pluralistic society and moral education within such a society suggest how a model or ideal for cultural pluralism is also a model or ideal for a democratic society. The basic condition for an ideal culturally pluralistic society could be viewed as suggesting a model for what an ideal democratic society would be like . . . . It can be used as a standard for judging existing societies and systems of education."[73]

F. Selected Recent Sources on Special Rights and Duties

While the major attention within moral philosophy has been directed toward general principles of morality and the general obligation and duties associated with them, ample evidence is also available for the justified recognition of special principles of morality and the special obligations and duties associated with them. Hart's paper, already referenced by Schrag and others, stands as something of a recent landmark on this point.[74] In his discussion of the question Nelson also cites Hart, refers specifically to "natural relationships such as parent/children," and concludes that while social or distributive justice does apply to these conditional special rights, "we should not assume that maxims of justice appropriate in one set of

[71] J. T. Klein, "Cultural Pluralism and Moral Education," Monist, 58 (1974), p. 686.

[72] Klein, p. 688.

[73] Klein, p. 692f.

[74] H. L. A. Hart, "Are There Any Natural Rights?" Philosophical Review, 64 (1955), pp. 175-191.

circumstances will necessarily be appropriate in others."[75] If it is thus (perhaps) erroneous to generalize from parental rights and obligations to the structuring of general social relations, it might also be erroneous to generalize from democratic rights and obligations used for structuring general social relations to parental/familial relations.

Two recent papers deal with some specifics on the family from the philosophical point of view.[76] The Blustein paper can be considered a preliminary probe of the source of parental/filial duties. Prima facie parental duties originate in procreation, but such duties now concentrate upon the social role of child-rearing. They attempt to balance the legitimate interests of the child, the society, and the child-rearer. Filial duties can be considered partly a necessary extension of such child-rearer duties (Blustein calls these "duties of facilitation and non-interference," e.g., to cooperate, to obey) and partly they are a consequence of the successful exercise of child-rearer duties (he calls these "duties of compensation and gratitude"). Compensation relates to a measure of parental sacrifice; gratitude relates only to free giving without definite measure. One especially interesting principle stressed by Blustein is that we should think of the family as a sociability unit, and not merely as a socialization unit. It represents intrinsic value (just as Cohen claims for the justification of democracy), and not merely instrumental value.[77] This principle fits in closely with Klein's model of the independent value of the cultural community within an ideal culturally pluralistic society, and the several references above distinguishing moral education from moral training.

Henley's paper gives a systematic approach to the various interests involved in possible conflicts over the authority to educate the child: "There are three parties involved in the dispute: the child, the parents or guardians, and the state (representing the interest of society). The interests of each can be interpreted in two ways: as an interest in

[75] W. N. Nelson, Philosophy and Public Affairs, 3 (1974), p. 424.

[76] J. Blustein, "On the Duties of Parents and Children," and K. Henley, "The Authority to Educate," presented before the Society for Philosophy and Public Affairs, New Orleans, April 30, 1976. Neither has been published to my knowledge at this point.

[77] Drawn from auditor notes on Blustein paper.

maximizing subjective satisfactions, or as an interest in having certain liberties (whether or not having those liberties leads to a maximization of subjective satisfactions)."[78] Henley distinguishes between legal and moral criteria, but also somewhat amalgamates them (following the practice of our own society under the influence of what I am calling the democratic ethic). His analysis uncovers a restricted authority for each of the six distinctive factors, but no absolute basis for any one of them: Satisfying the child, the parent, and the society, and protecting the liberty of the child, the parent, and the society. Granted that in a "theoretically optimal society" one could justify "the full socialization of children" without restraints, this is not where we find ourselves.

> We are not justified in claiming blanket authority for society or the state to educate children to satisfy society, unless we can find ground for this claim other than a simple appeal to the satisfaction of the desires of the members of the society . . . . It is important to unveil the logic of the claim that every society, whether or not it satisfies human interests as well as other sorts of society, has full, unrestrained authority to socialize children . . . . This claim is not grounded on an appeal to the satisfaction of human interests, but is rather a disguised claim that society or the state has complete liberty toward its minor children.[79]

Henley thus recognizes, but minimizes, the independence of parental authority: "It is reasonable for parents to claim authority over the education of their children in order to fit the child into the life of the parents only to the extent that there are no other considerations--this basis for parental authority only justifies authority which leaves untouched the interests of the child and of society: authority over indifferent domestic arrangements, and over matters which require a decision but in which there must be an element of arbitrariness."[80] More specifically, he criticizes the laxity of current court decisions allowing parents

[78]K. Henley, "The Authority to Educate," unpublished manuscript courtesy of the author, dated April 30, 1976, pp. 3f.

[79]Henley, p. 8.

[80]Henley, p. 6, italics added.

relatively unrestrained liberty to prepare the child for "additional obligations"--meaning religious training, such as is claimed as a parental right in Schrag's paper. But the extent to which this allows parents to coerce the child to fulfill religious obligations which the parents choose for the child, it is "clearly in conflict with the liberty of the children." Religious education could only be consistently exercised if it were coupled with a zealous protection of the religious liberty of the child, "making it easy for the child, as he matures, to learn of the variety of religious and non-religious ways of life."

In cases of serious conflict between parents and society, "the property claim of the parents must give way, for the recognition of the right of all citizens to basic liberties is more deeply embedded in our law and in our morality than is the recognition of the very special right of parents to oversee the upbringing of their children as they wish--and both of these competing rights cannot consistently be maintained." This conclusion--certainly debatable, see Rodham's equally critical but rather more cautious estimate of the social consensus "romanticism" which backs parental power in the legal system[81]--is clearly built upon the individualistic prescriptive elements of the democratic ethic to which Henley hopefully appeals: "The liberties of each member of society are circumscribed by the liberties of each other member of society, and however we specify these liberties it will never be the case that the child is free to do or become what will either constitute or produce an invasion of the liberties of others."

Henley's approach thus seriously questions the use of parental authority in the maintaining of a cultural community independent of society as a whole. Perhaps he draws the contrast too sharply. Rodham rather carefully positions a community interest in defending the rights of the child against the abuses of both the natural parent of the family and the substitute parent of the state. But she moves no less strongly in the direction of a major revision with legal specifics: Abolition of minority status, granting all procedural rights, substitution of evaluation of consequences for the implied identity of parental with filial interests, application of the new equal protection theory, and substitution of the realistically concrete "least detrimental" standard for the rhetorically empty "best interests" standard.[82] We still detect in the authority of her arguments a strong parental concern seeking new ways for securing the welfare of the child.

[81]Rodham, p. 490.

[82]Rodham, pp. 506-513.

G. Conclusion

This paper is the report of a research project on recent sources related to its subject, and as such has succeeded in substantial summary. Without attempting to go beyond this area of research as reported, what is clearly needed is the effort to pull it together, to give a critical assessment of what has been accomplished in the works cited, to indicate what needs to be done, and to take steps in doing it. Some portion of this effort will be attempted by way of conclusion.

The democratic ethic can be accepted as a dynamic complex whole of various principles moving in several directions such as was indicated by the sources in section A. It has historical roots, classical representations, contemporary modifications and applications. The expanded thrust of it at the present time is understood to be along the lines of Dewey philosophy, currently represented rather wholistically by Hook, somewhat less wholistically by Cohen and Rawls. It is the movement, within social-institutional frameworks, toward greater freedom, individuality, equality, autonomy, and the will of the majority (or whole) toward realization of its interests. As such it places the exercise of parental authority, or at least any traditionalist interpretation of it, under considerable pressure. Without sacrificing basic loyalty to the ethic of democracy, can the exercise of parental authority be given convincing moral justification? How so?

Some justification for the principle of authority in general (section B) is the most factually substantiated conclusion within the scope of this report. Friedrich cites common values, de Jouvenel and Knight "the facts of life," Hoebel the universal cumulative evidence of "biological and cultural survival." In this mass of actual evidence the "natural" place of the parent is recognized (Spiro), which is further underlined as "primordial" with respect to all other authority operators. Friedrich summarizes its justification by reference to: Status and age, faith and religion, interests and advantages, personal loyalty and affection, law and sanction, and, finally, its place in the ongoing history of human reason.

The attempted delegitimation of actual authority claims by Wolff's appeal to the principle of moral autonomy appears to have been sufficiently defeated. Detailed counter-arguments center on the actual (and necessary) complexities of overriding obligations, personal decision-making processes, and social-political organizational structures. Analytical philosophical method has also supplied (in Baier)

some independent defense of natural and conventional moral authority, and (in Goldstone and Tunnell) the recognition of various functions of authority other than its command functions.

Punishment and its justification is the theoretical issue in our report most thoroughly examined by recent philosophers (section C). Aspects of teleological, retributive, and combined teleological/retributive justifications occur, with perhaps some general acceptance of punishment as part of a "whole game" of social organization and a nexus of concepts associated with it. An open question remains, however, as to the precise and full nature of the logic of moral justification itself: Whether by existential leap, practical reason, ordinary language and experience, ideal interpretation, or . . . what? Incomplete discussions by Barnett, Flew, Baier, and Raz were cited. Baier gave one example, anyway, of a finely crafted logical justification for enforced requirements on teleological grounds. But Marshall rejects the use of the term "punishment" to describe school discipline procedures because of a set of objections which need to be answered if parental authority presumes to include it (as Schrag does).

The paternalism issue in law (section D) might be characterized as a chronic irritating condition seeming to spoil the fine symmetry of democratic theory, although Ten's analysis attempts to control its application in narrow limits. Similarly, the refutation of moral egoism (and, by implication, presupposed individualism) opens the way for further practical justification of moral authority procedures. These points seem to be important independent features <u>within</u> democratic theory itself.

The largest, most incomplete, and most central issue within the report is the theory of moral education (section E). Jones' strong paper takes the issue beyond the question of a theory of interests alone, whether of parents, children, or the public. If there is a right to receive a moral education (Jones), and if parents are able to provide at least basic elements of one, a prima facie obligation is entailed for them to do so. Parental authority, if necessary for fulfilling the obligation, could then be soundly based on a fundamental principle: To create moral responsibility in children. But can this be done, and how? Two widely influential positive views were reported, those of Piaget-Kohlberg and Peters, both explicitly including essential but limited exercises of parental authority as components in their complex mature views. Neither Orr's critique of Kohlberg nor Vandenberg's critique of Peters undermines this latter factor, and may expand it. Perhaps Klein's paper on

the balanced role of the individual, the cultural community, and the society in an ideal culturally pluralistic society gives the single most comprehensive picture of how independent principles of parental authority and the democratic ethic can cohere with one another.

Another, more immediate, technical possibility would be to use the distinction between special rights and duties, wherein parental authority would find its proper function (section F), and general rights and duties, wherein the larger sense of democracy would prevail. Yet, there seems to be something ad hoc and incomplete in such an approach, and, as Henley and Rodham point out, it leaves open the practical and perhaps painful issues of resolution of conflict between them.

The research field examined thus shows ample evidence as to the strength of the democratic ethic, and ample recognition of the complexity of principles within it, amounting in some cases to a legitimate questioning of its adequacy and coherence as it stands alone. Ample evidence also prevails as to the justification of some exercise of parental authority, yet ample recognition here, as well, of the need to define its scope and form. I conclude that both of these factors obtain adequate justification within current moral philosophy, and that both stand open to further definition and determination, within themselves and in their tension relation to one another.

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